

In re) Fair Hearing No. 20,872
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Appeal of)

The petitioner appeals the decision of the Department for Children and Families, Health Access Eligibility Unit (HEAU) terminating his eligibility for Vermont Health Access Program (VHAP) benefits. The issue is whether the petitioner's income exceeds the program maximum.

1. The petitioner lives with his three children. Following a recent review of his eligibility the Department sent a notice in May 2007 terminating his VHAP benefits.¹

2. There is no dispute that the petitioner's sole income is from self-employment. The dispute in this matter concerns whether losses from depreciation reported by the petitioner on his income taxes can also be deducted in determining his eligibility for VHAP. The Department in its decision determined that the petitioner's countable income was \$5,745.22 a month, without allowing depreciation. If the

amount claimed by the petitioner for depreciation was allowed, his countable income would be \$4,268.97 a month. However, both amounts exceed the program maximum of \$3,184.

3. At his hearing, held on June 26, 2007, the petitioner did not dispute the Department's determination of his income. However, he maintained that his income from the previous year was even higher, and that he had been found eligible for VHAP. The only explanation for this offered by the Department was that its previous determination of eligibility must have been an error in the petitioner's favor.

ORDER

The Department's decision is affirmed.

REASONS

Under the VHAP regulations, all earned income, except a \$90 disregard for each earner, is included as countable income for eligibility. Income from self-employment is determined by deducting business expenses from gross receipts. W.A.M. §§ 4001.81(a)-(e). The regulations

¹ It appears that the petitioner's children have health coverage through other programs.

specifically provide that "depreciation" is not a countable business expense. W.A.M. § 4001.81(d)(4).

Based on the above regulations and the undisputed facts regarding the petitioner's income, it must be concluded that the petitioner had countable income well in excess of the maximum for eligibility under the VHAP program for a parent in a four-person family, which is \$3,184. P-2420 B. Thus, the Department's decision finding the petitioner ineligible for VHAP based on his reported income must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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